

### **Remarks**

Applicants respectfully submit that the present amendment overcomes the Examiner's objections as stated in the Notice of Non-Compliant Amendment mailed on September 7, 2007, and further request that the present amendment be entered in the cited application.

This amendment corrects inadvertent typographical and grammatical errors noted by the Examiner in the office action mailed May 4, 2007 and does not add new matter to the claims. When this amendment is entered, claims 14-32 are pending in the application. Claims 1-13 have been withdrawn from consideration.

In the present office action, the Examiner now withdraws the previous indication that method claims 14 and 15 were allowable and rejects all of the pending claims based on three new references that had not been used as a basis for any rejections in earlier office actions. Briefly, the pending claims are rejected as anticipated by either US 4,632,111 or US 5,116,339 and as being unpatentable based on the combination of US 4,632,111 in view of US 4,305,394 or the combination of US 5,116,339 in view of US 4,305,394.

In a related set of rejections under 35 USC 102(b), the Examiner applied three interpretations of US 4,632,111 (the '111 patent) to reject selected claims. Claims 14, 16, 17, 21, 22, 24, 27, 28 and 29 are rejected under a first interpretation, claims 14, 18-20 and 26 are rejected under a second interpretation and claim 31 is rejected under a third interpretation. Applicants respectfully submit that the '111 patent does not anticipate any of the these selected claims under the three different interpretations set out by the Examiner.

The '111 patent reports a device for positioning a prosthetic acetabulum or acetabular cup. In this device, the inner surface of the acetabular cup is gripped with an elastically deformable ring (a silicone ring) when the ring is compressed between the shoulder of a groove holding the ring in a fixed endpiece and an adjustable flange. As the deformable ring is compressed, it expands radially to grip or secure the inner surface of the acetabular cap. The adjustable flange is moved using a threaded rod and rotatable collar.

Applicants traverse this rejection because the claimed endpiece and the endpiece reported in the '111 patent are different and the method of engaging the cup are different. The endpiece in this reference is not expanded against the inner services of an acetabular cup. Instead the endpiece is a fixed component that is rigidly attached to a rod. In operation,

the fixed endpiece and rod do not move in relationship to each other. The elastic deformable ring is expanded by compressing it between the fixed endpiece and a movable flange, The flange moves relative to the rod, not the endpiece. These reported components operate and function in a very different fashion when compared to the operation of the now claimed endpiece. In short, the method of engaging the claimed endpiece with the acetabular cup is readily distinguished from the engaging method of the endpiece reported in the '111 patent. Applicants request that this rejection be withdrawn.

In addition, Applicants also respectfully submit that US 5,116,339 (the '339 patent) does not anticipate claims 14, 18, 21, 22, 23, 24, 29 and 30 under 35 USC 102(b). The '339 patent reports a device for positioning an acetabular cup. In this device, an expandable collar on the end of a movable rod is used to secure the cup through a hole or opening in the acetabular cup to the endpiece of the device. This engagement method is reported at Col. 2, line 62 bridging to Col. 3, line 10 and illustrated in Figs. 1-3. In use, the rod that extends through the hole or opening in the rounded end of the cup secures the cup to the endpiece by moving a cam on the distal end of the rod in order to expand against the edges of the hole or opening in the cup. The rod is moved with a rotatable, threaded collar.

Applicants also traverse this rejection because the claimed endpiece and the endpiece reported in the '339 patent are also different and the methods of engaging the cup are different. The endpiece in this reference is not expanded against the inner services of an acetabular cup. Instead, the endpiece is a fixed component that is drawn against the inner surface of an acetabular cup by a rod which extends through a hole in the cup. The end of the rod is intended or configured to extend or fit through this hole or opening in order to secure the endpiece to the cup. The endpiece itself is not expandable or deformable. These reported components operate and function in a very different fashion when compared to the operation of the now claimed endpiece. In sum, the method of engaging the claimed endpiece with the cup is readily distinguished from the engagement method of the endpiece reported in the '339 patent. Applicants request that this rejection be withdrawn.

Finally, Applicants respectfully submit that neither the combination of the '111 patent with US 4,305,394 nor the combination of the '339 patent with US 4,305,394 make the pending claims unpatentable under 35 USC 103. Briefly, US 4,305,394 reports a device

where the endpiece of the device is interchangeable so that the rounded endpiece of the device can be changed to fit the size of the acetabular cup that is to be implanted. In this patent, the acetabular cup itself is positioned on the interchangeable endpiece of the device using alignment pins.

Applicants submit that the cited combinations do not teach or suggest the now claimed invention and that the secondary reference, US 4,305,394, does not overcome the noted deficiencies of both the '111 and '334 patents set out in the discussion above. There is nothing in the two combinations relied on by the Examiner that teach or suggest the method of engaging an acetabular cup that is recited in the pending claims. Applicants request that the rejection under 35 USC 103 be withdrawn.

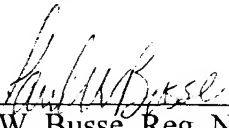
**Conclusion**

Applicants submit that the amended claims are in condition for allowance and are not unpatentable in view of the references relied upon by the Examiner in the outstanding office action dated May 31, 2007. Applicants respectfully request a notice of allowance in this application.

Respectfully submitted,

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